

Senate Bill No. 899

Passed the Senate August 21, 2008

Secretary of the Senate

Passed the Assembly August 13, 2008

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 5523 to the Fish and Game Code, relating to fishing.

LEGISLATIVE COUNSEL'S DIGEST

SB 899, Simitian. Fishing gear.

(1) Existing law grants to the Fish and Game Commission powers relating to the protection and propagation of fish and game. Existing law establishes the Department of Fish and Game in the Resources Agency, and generally charges the department with the administration and enforcement of the Fish and Game Code. The department administers a commercial fishing licensing program and carries out various other functions relating to fishing. Existing law establishes the Ocean Protection Council and requires the council, among other things, to coordinate activities of state agencies, that are related to the protection and conservation of coastal waters and ocean ecosystems, and to establish policies to coordinate the collection and sharing of scientific data related to coastal and ocean resources between agencies.

This bill would require the department, in collaboration with the council, by January 1, 2010, to recommend to the commission sustainable funding sources for a program for the prevention of the loss of fishing gear and for the recovery of derelict fishing gear, as defined. The department would be required, by January 1, 2010, to include on all fishing licenses and in all appropriate official brochures a toll-free telephone number for the purpose of reporting derelict fishing gear and the address for an Internet Web site that maintains a reporting system for derelict fishing gear. The bill, on and after July 1, 2011, would require a person who loses commercial fishing gear, and certain commercial passenger fishing vessels, to report, in the manner prescribed by the department, in collaboration with the council, the location at which the fishing gear was lost, the name and fishing identification number of the person owning the fishing gear and of the person fishing with the gear if different than the owner, and the type of lost fishing gear within 48 hours of losing the fishing gear and returning to port. By July 1, 2011, the council would be required to identify and, if

funding is available, establish and maintain, or support, a database of known derelict fishing gear. The council would be required to take certain action to establish or achieve specified targets for the removal and disposal of derelict fishing gear. On and after July 1, 2011, all traps and trawl nets deployed in the waters of the state would be required to be coded, in the manner prescribed by the department, in collaboration with the council, with specified information to aid in the identification of the source of any derelict fishing gear. The bill would provide that, if the department does not have sufficient personnel to carry out any of these provisions, the department would be authorized to contract with appropriate parties for those services if funds are available for that purpose.

Because, under existing law, a violation of these provisions would be a crime, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Ocean-based sources are a significant source of plastic marine debris, including lost and abandoned “derelict” fishing gear that can be dangerous to wildlife, boaters, and divers.

(b) Fishing gear such as commercial and recreational nets, lines, traps, pots, and other fishing equipment that is lost or abandoned may continue to catch marine organisms long after the gear is lost and may threaten sensitive marine habitats and ecosystems.

(c) “Ghost fishing,” where marine animals are trapped in lost or abandoned nets or traps, is a leading cause of marine mammal deaths each year.

(d) Lost or abandoned nets and gear have been found to drift thousands of miles trapping and killing fish, turtles, seabirds, and other marine life.

(e) Marine debris such as derelict fishing gear has impacted at least 267 species worldwide through ingestion and entanglement.

(f) Fishing nets and fishing gear are often made from synthetic materials that take a long time to degrade and may never degrade.

(g) Lost fishing gear poses a hazard and economic burden for boaters and fishing operations and is a safety hazard for surfers, swimmers, and divers.

(h) The California Lost Fishing Gear Recovery Project has developed a strategy to address derelict fishing gear by working cooperatively with fishermen and local leaders for the recovery of gear and the prevention of further gear losses. Through a pilot program for gear removal, the recovery project retrieved nearly 10 tons of gear from around the Channel Islands in May 2006.

SEC. 2. Section 5523 is added to the Fish and Game Code, to read:

5523. (a) For purposes of this section, the following terms have the following meanings:

(1) “Commercial fishing gear” means fishing gear used by a commercial fisherman who has a valid, unrevoked commercial fishing license issued pursuant to Section 7850.

(2) “Commercial passenger fishing vessel” means a boat from which persons are allowed to sport fish pursuant to a commercial fishing license.

(3) “Council” means the Ocean Protection Council.

(4) “Derelict fishing gear” means lost or abandoned fishing nets, fishing lines, and other commercial and recreational fishing equipment, and does not include lost or abandoned vessels.

(5) “Fishing gear” means fishing nets, fishing lines, and other commercial and recreational fishing equipment.

(b) The department may apply for, and accept, funds from local, state, federal, and private sources to establish and implement a fishing gear loss prevention and derelict fishing gear recovery program, or to facilitate and support an existing program.

(c) The department, in collaboration with the council, on or before January 1, 2010, shall recommend to the commission sustainable funding sources for a fishing gear loss prevention and derelict fishing gear recovery program. The recommended funding sources may include the adoption of fees, and the imposition of penalties on persons having significant and chronic gear loss and

those not reporting lost gear pursuant to subdivision (e), to assist in defraying the cost of the program.

(d) The department, on or before January 1, 2010, shall include the following information on all fishing licenses and in all appropriate official brochures:

(1) A toll-free telephone number for the purpose of reporting derelict fishing gear.

(2) The address for an Internet Web site that maintains a reporting system for derelict fishing gear.

(e) On and after July 1, 2011, a person who loses commercial fishing gear, and a commercial passenger fishing vessel operator on which vessel five or more passengers have lost fishing gear at the same location, within the waters of the state and offshore shall report, in the manner that the department, in collaboration with the council, shall prescribe, the location at which the fishing gear was lost, including latitude and longitude, the name and fishing identification number of the person owning the fishing gear and of the person fishing with the gear if different than the owner, and the type of lost fishing gear within 48 hours of losing the fishing gear and returning to port.

(f) On or before July 1, 2011, the council shall identify and, if funding is available, establish and maintain, or support, a database of known derelict fishing gear, including the location and type of derelict fishing gear. The council shall identify on an Internet Web site areas in which large amounts of derelict fishing gear have been abandoned.

(g) On or before January 1, 2012, and annually thereafter, the council shall prioritize the derelict fishing gear that has been reported and identified for removal and disposal, to achieve the target reductions for derelict fishing gear removal and disposal established by the council pursuant to Section 35615 of the Public Resources Code. If, on or before January 1, 2010, the council has not established those targets, the department shall establish target reductions for the removal and disposal of derelict fishing gear.

(h) On and after July 1, 2011, all traps and trawl nets deployed in waters of the state shall be tagged or coded in the manner that the department, in collaboration with the council, shall prescribe with the owner's fishing identification number to aid in the identification of the source of derelict fishing gear.

(i) If the department does not have sufficient personnel available to carry out any of the provisions of this section, the department may contract with appropriate parties for those services if funds are available for that purpose.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2008

Governor